

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
February 9, 2007 Session

SECRETARY OF VETERAN'S AFFAIRS v. JOHN FRAZIER/OCCUPANT

**Appeal from the Circuit Court for Maury County
No. 11360 Robert L. Holloway, Jr., Judge**

No. M2006-00544-COA-R3-CV - Filed on February 23, 2007

This is an appeal of a detainer action by the occupant of the premises. Susan Frazier appeals the grant of summary judgment in favor of the Secretary of Veteran's Affairs, the owner of the premises. Pursuant to the order, Ms. Frazier was ordered to vacate the premises at 410 Winding Way in Columbia, Maury County, Tennessee. Finding no error, we affirm.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed

FRANK G. CLEMENT, JR., J., delivered the opinion of the court, in which WILLIAM C. KOCH, JR., P.J., M.S., and WILLIAM B. CAIN, J., joined.

Susan L. Frazier, Columbia, Tennessee, Pro Se.

Sharon Fewell and Matthew Graves, Memphis, Tennessee, for the appellee, Secretary of Veteran's Affairs.

MEMORANDUM OPINION¹

Susan L. Frazier appeals the grant of summary judgment which required that she vacate the premises at 410 Winding Way in Columbia, Maury County, Tennessee. Ms. Frazier moved onto the property in 1995, when she married John Frazier. The property was acquired by John Frazier in 1990 when he was a single person. Ms. Frazier has continued to reside at the Winding Way property ever since her marriage to John Frazier.

¹Tenn. Ct. App. R. 10 states:

This Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

John Frazier died in 1998 while married to Susan Frazier. At the time of his death, the Winding Way property was encumbered by a Deed of Trust and Deed of Trust Note. After his death, the note went into default and the Trustee sold the property at an auction pursuant to foreclosure proceedings. The Secretary of Veteran's Affairs obtained title to the Winding Way property in June of 2003 pursuant to a Trustee's Deed, dated June 9, 2003, and has remained the sole owner of the property ever since.

The Secretary of Veteran's Affairs commenced the detainer action that is the subject of this appeal in the General Sessions Court of Maury County, Tennessee in July 2005. Following a ruling by the General Sessions Court, the matter was appealed to the Circuit Court for Maury County, Tennessee. Following the filing of additional pleadings in the Circuit Court, the Secretary of Veteran's Affairs filed a Motion for Summary Judgment seeking sole possession of the property and thus an order for the removal of Ms. Frazier from the premises. The Circuit Court granted the Motion for Summary Judgment, from which Ms. Frazier filed a timely appeal.

Although the appellant's brief does not specify the issues on appeal, we have concluded that she presents three primary issues. One, she is contending the service of process was ineffective. Two, she contends the General Sessions Court and the Circuit Court for Maury County, Tennessee did not have subject matter jurisdiction. Three, she contends the Circuit Court erred by granting summary judgment in favor of the Secretary of Veteran's Affairs.

We have examined the record closely and find that process, which was served by being posted to the door of the residential property after three unsuccessful attempts, was effective because the plaintiff, the Secretary of Veteran's Affairs, is only seeking possession of the property, not a judgment for monetary damages. *See* Tenn. Code Ann. § 29-18-115. We have also concluded that the property at issue is in Maury County, Tennessee; thus, the General Sessions Court and the Circuit Court for Maury County, Tennessee have subject matter jurisdiction. *See* Tenn. Code Ann. §§ 29-18-107; 27-5-101. We further find the Secretary of Veteran's Affairs is the sole and lawful owner of the property at issue, which title it obtained by a facially valid Trustee's Deed,² and Ms. Frazier has no present right, title or interest in or to the property.

We therefore affirm the judgment of the Circuit Court in all respects.

²Ms. Frazier asserted challenges to the claim of title by the Secretary of Veteran's Affairs in this appeal; however, we have determined that any such challenge needed to be made in other or previous proceedings, not on appeal in this action. Accordingly, this court is without jurisdiction to question or examine the validity of the Secretary's title to the property, which is properly recorded in the Register's Office of Maury County, Tennessee.

The judgment of the trial court is affirmed, and this matter is remanded with costs of appeal assessed against the appellant, Susan L. Frazier.

FRANK G. CLEMENT, JR., JUDGE